



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
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ATLANTA, GEORGIA 30303-8960

December 13, 2007

Mr. Kenneth R. Dugger
Acting Chief, Environmental Branch
U.S. Army Corps of Engineers
Jacksonville District
P.O. Box 4970
Jacksonville, FL 32232-0019

Attn: Ms. Yvonne Haberer
Planning Division

Subject: EPA Review of COE's FSEIS for Lake Okeechobee Regulation
Schedule Study (LORSS) Dated November 2007; Glades, Hendry,
Martin, Okeechobee and Palm Beach Counties, Florida; CEQ #20070487;
ERP #COE-E39051-FL

Dear Mr. Dugger:

Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (EPA) has reviewed the subject U.S. Army Corps of Engineers (COE) Final Supplemental Environmental Impact Statement (FSEIS) for LORSS. EPA has provided NEPA comments on the COE's Revised Draft SEIS (RDSEIS) for LORSS in a letter dated August 16, 2007, and previously provided written comments on the DSEIS.

LORSS is a Comprehensive Everglades Restoration Plan (CERP) evaluation of the COE's proposed new water regulation schedule for water releases from Lake Okeechobee (Lake) relative to the existing Water Supply Environment (WSE) schedule. The modifications to the Lake release schedule are only operational, with no structural changes. The proposed LORSS schedule is also only an interim plan until a re-evaluation is made in 2010 (when additional water storage areas are to be available). This FSEIS supplements the COE's 1999 WSE Final EIS (FEIS).

Although Alternative E performs somewhat better for the Caloosahatchee and St. Lucie Estuaries than the previously COE-preferred Alternative 1bS2-m (particularly in limiting high flows during wet and very wet years), high flows are still predicted to occur with attendant impacts to both estuaries. As indicated in previous correspondence, it is clear that without the implementation of the planned additional water storage

capacity for the Lake (e.g., reservoirs, stormwater treatment areas and other storage through CERP and Florida's Acceler8 Program), seasonal high and low flows from the Lake cannot be sufficiently regulated while also maintaining pool elevations at safe levels. As such, the ecological health of the lower river and estuarine oysters, seagrasses and salinities would continue to be impacted by too much or too little water.

For the FSEIS, we have concentrated our NEPA review on the COE's responses to our comments on the RDSEIS, which are found in Appendix H. Based on our review, we offer the following comments on the COE responses in the FSEIS:

* **EPA 1 (Water Quality)** – Unfortunately, we did not find any substantive modifications in the FSEIS text other than a minimal reference to the adopted Florida Department of Environmental Protection (FDEP) Total Maximum Daily Load (TMDL) for Lake Okeechobee. For example, the Caloosahatchee write-up includes no mention of FDEP's ongoing work to propose a nutrient (TN/TP) TMDL for the Caloosahatchee Estuary by 12/31/08. The St. Lucie Estuary (SLE) discussion also does not reference the recently proposed (9/06) EPA TMDLs for portions of the SLE, or utilizing any of the Affected Environment information available in the IRL-South EIS.

* **EPA 2 (Caloosahatchee River Reach)** – We appreciate the modifications provided in the FSEIS regarding the description of the Caloosahatchee River resource upstream of S-79.

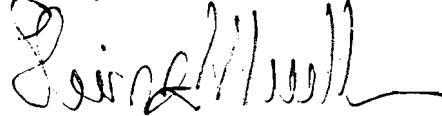
* **EPA 3 (St. Lucie Estuary)** – No improvements to the SLE water quality portions of the Affected Environment chapter were found in the FSEIS.

Based on these responses, the FSEIS could have been improved with the requested modifications to the DSEIS. More importantly, while we defer to the COE regarding Lake elevations and HHD safety, EPA continues to support Alternative E over 1bS2-m from an environmental perspective. We also support the rapid implementation of additional storage for the Lake to measurably improve the flow regimes to both estuaries. EPA appreciates the State of Florida's initiative in providing fast track implementation for such storage through its Acceler8 Program. Until additional storage is provided, however, Alternative E (and other such alternatives) can only attempt to be the best operational compromise until the additional planned CERP and Acceler8 water storage infrastructure is constructed and becomes operational.

Editorially, we also note that Appendix G could have been improved as a user-friendly document. The Table of Contents does not track the document chapters (blue dividers) such that our comment letter and the COE's comment matrix (responses) were difficult to find. We suggest that the level of detail of the Table of Contents match the document dividers, and that they be numbered or "tabbed" to facilitate a search.

Should you have questions regarding our comments, please contact Chris Hoberg of my staff (404/562-9619 or hoberg.chris@epa.gov) for overall NEPA issues. For technical issues, please contact Eric Hughes of the South Florida Office in the EPA Water Management Division (904/232-2464 or hughes.eric@epa.gov) located at your COE Jacksonville District office.

Sincerely,

A handwritten signature in black ink, appearing to read "Heinz J. Mueller", with a long horizontal flourish extending to the right.

Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management

cc:

Doug Chaltry – USFWS at Vero Beach, FL
Don Fox – FFWC at Okeechobee, FL
Greg Knecht – FDEP at Tallahassee, FL
Kim O'Dell – SFWMD at West Palm Beach, FL
Bob Pace – USFWS at Vero Beach, FL